

Coast Guard, DHS

§ 140.40

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

§ 140.30 Judicial review.

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with:

(1) Any provision of the Act;

(2) Any regulation in this subchapter; or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty for each day of the continuance of the failure.

(b) Any person who knowingly and willfully:

(1) Violates any provision of the Act;

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;

(4) Makes any false statement, representation, or certification in any application, record, report, or other docu-

ment filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than \$100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

[CGD 78-160, 47 FR 9376, Mar. 4, 1982, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with subpart 1.07 of 33 CFR part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the